

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANDREW JAMES KOSTER,

Plaintiff,

Case No. 1:23-cv-718

v.

HONORABLE PAUL L. MALONEY

KALAMAZOO COUNTY, et al.,

Defendants.

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**ORDER REGARDING MOTION TO DISMISS**

Defendant Lindsey Denharder and Defendants Tanner Boysen, Amber Holmes, Collin Juszczuk, Kalamazoo County, Jeff Nichols, David Scholten have filed motions to dismiss (ECF Nos. 6 and 8) in which it is argued that Plaintiff has failed to allege sufficient facts to support one or more of the claims in the complaint. If true, the claim or claims would be defective under the Supreme Court’s plausibility standard. *See Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

The Court reviewed the motions. Without expressing any view as to the merits, the Court affords Plaintiff the opportunity to cure the allegedly inadequate pleading by granting Plaintiff leave to file an amended complaint, as allowed by Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. An amended complaint must plead sufficient factual allegations that, if true, would “plausibly give rise to an entitlement to relief.” *Iqbal*, 556 U.S. at 680. If Plaintiff timely files an amended complaint, the Court will deny without prejudice the

motions to dismiss as moot. *See Bancoult v. McNamara*, 214 F.R.D. 5, 13 (D.D.C. 2003). If Plaintiff does not timely file an amended complaint, Plaintiff must file a response to the motions to dismiss, and the Court will decide the motions.

Plaintiff must file either an amended complaint within twenty-one days after Defendants filed the motions to dismiss, Fed. R. Civ. P. 15(a)(1)(B), or Plaintiff must file a response to the motions to dismiss within twenty-eight days after Defendants filed the motions to dismiss, W.D. Mich. LCivR 7.2(c).

**IT IS SO ORDERED.**

Dated: July 14, 2023

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge